

February 19, 2009

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554


Re: *Telephone Number Portability*, CC Docket No. 95-116

Dear Ms. Dortch:

On February 18, 2009 Scott Blake Harris and I on behalf of Telcordia Technologies, met with Scott Deutchman, Competition and Universal Service Legal Advisor to Acting Chairman Copps, Nicholas Alexander, Legal Advisor, Wireline, to Commissioner McDowell, and Julie Veach, Ann Stevens, Marilyn Jones, and Melissa Kinkel of the Wireline Competition Bureau. I also met with Scott Bergmann, Senior Legal Advisor, Legal Advisor for Wireline Issues to Commissioner Adelstein. The points presented are summarized in the attachment that follows.

A copy of this letter is being filed electronically in the above-referenced docket. Please contact me if you have any questions.

Sincerely,



John T. Nakahata
Counsel to Telcordia Technologies

cc:	Scott Deutchman	Ann Stevens
	Scott Bergmann	Marilyn Jones
	Nicholas Alexander	Melissa Kinkel
	Julie Veach	

NPAC Amendment 70: Foreclosing NPAC Competition Until 2016 and Improperly Allowing NeuStar to Leverage its NPAC Monopoly into ENUM Services

Telcordia Contact:

Joel Zamlong

jzamlong@telcordia.com

Adam Newman

anewman@telcordia.com**Telcordia Counsel Contact:**

Scott Harris

sharris@harriswiltshire.com

John Nakahata

jnakahata@harriswiltshire.com

Oversight of Number Portability in the USA

(The Cast)

Federal Communications Commission
(overall jurisdiction over numbering)

North American Numbering Council
(Oversight of number portability
administration, including LLCs)

North American Portability Management (NAPM), LLC
(Members: ATT, Verizon, Qwest, T-Mobile, Embarq,
Sprint, Comcast, XO – Signs and manages US Master
Agreement with NPAC Contractor)

**Number Portability
Administration Center
Contractor (NeuStar)**

Service Providers and Other Users such as Service Bureaus Sign User Agreements

■ ■ ■ Amendment 70 is Anti-Competitive And Attempts to Frustrate FCC Oversight

- Through Amendment 70, NAPM and NeuStar eliminate all possibility of competitive NPAC services until 2016 (extended from 2012 under Amendment 57) – done in secret, without FCC approval.
- Through Amendment 70, NAPM improperly exceeds the limits of authority under FCC rules by permitting NeuStar to transform the NPAC into an ENUM provisioning database – enabling NeuStar to extend its monopoly from NPAC to ENUM by 2016, without FCC approval.
- Through Amendment 70's “all-or-nothing” inseverability clause, NAPM and NeuStar deliberately frustrate FCC oversight and consideration of policy issues.

- ■ ■ NeuStar and NAPM LLC – A History of Secret Deals That Harm Competition for Short Term Cost Savings
 - Original bid contract – Term 1997-2002
 - First No-Bid extension (12/2000) – Term extended to 2006, w/option for 2007.
 - Second No-Bid extension (10/2003) – Term extended to 2011.
 - Third No-Bid extension (Amendment 57, 9/2006) – Term extended to 2015; competitive bidding forbidden before 2012 with penalty clauses.
 - Fourth No-Bid modification (Amendment 70, 1/2009) – Competition blocked to 2016

Amendment 70 Forecloses NPAC Competition to 2016 – Making Non-Exclusivity a Sham

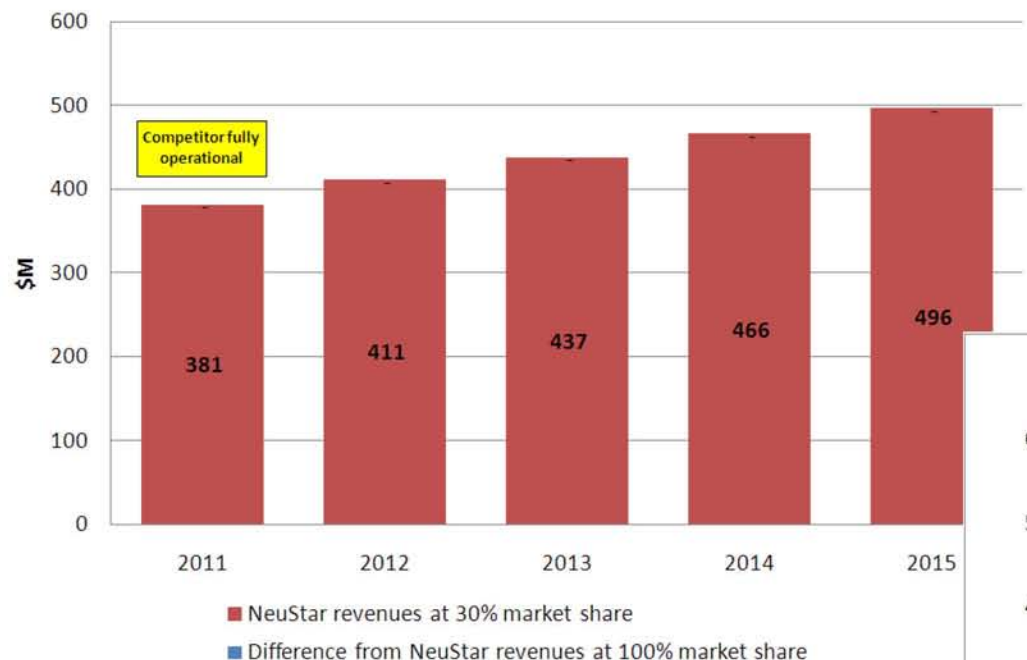
- Amendment 57 (2006) blocked competition in NPAC services before 2012 by creating a \$30+ million penalty for issuing an RFI or RFP, or selecting an additional NPAC vendor.
- Amendment 70 (2009) blocks competition by making it uneconomic to select an additional NPAC vendor(s).
 - NeuStar loses no revenue for one year after competitive entry, no matter how much market share it loses in the first year.
 - NeuStar may never lose any revenue. Even at significant (e.g. -30%) loss of market share, NeuStar loses no revenue.*
 - Even losing 50% market share, NeuStar gets **92% of the revenue it would have received for handling 100% of the market.***
 - At 70% market share loss, NeuStar still gets 82% of the revenue it would have received for handling 100% of the market.*
 - If transactions grow faster, the picture is even worse.

* For 2011-2015, assuming 16% annual transaction growth, and competitive entry in 2011 immediately at the stated percentage. Does not include 2016 credits.

Amendment 70: At 50% Market Share Loss, NeuStar Keeps 92% of Revenues – 2011-2015; at 30% Market Loss, it Keeps 100%

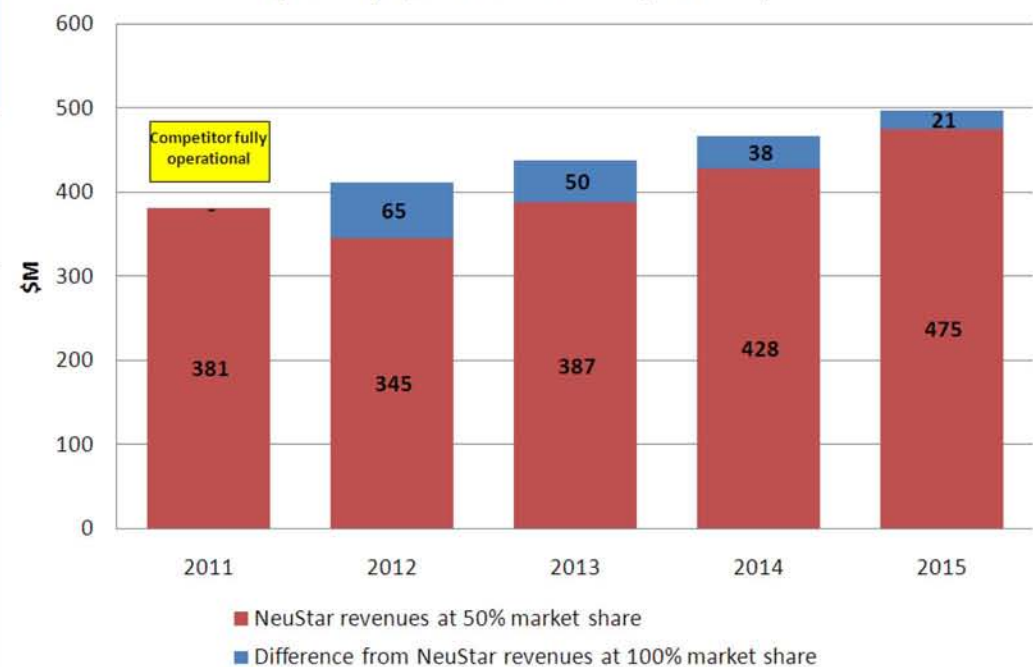
NeuStar revenues at 30% v. 100% market share

(Assumes projected 16% transaction growth rate)

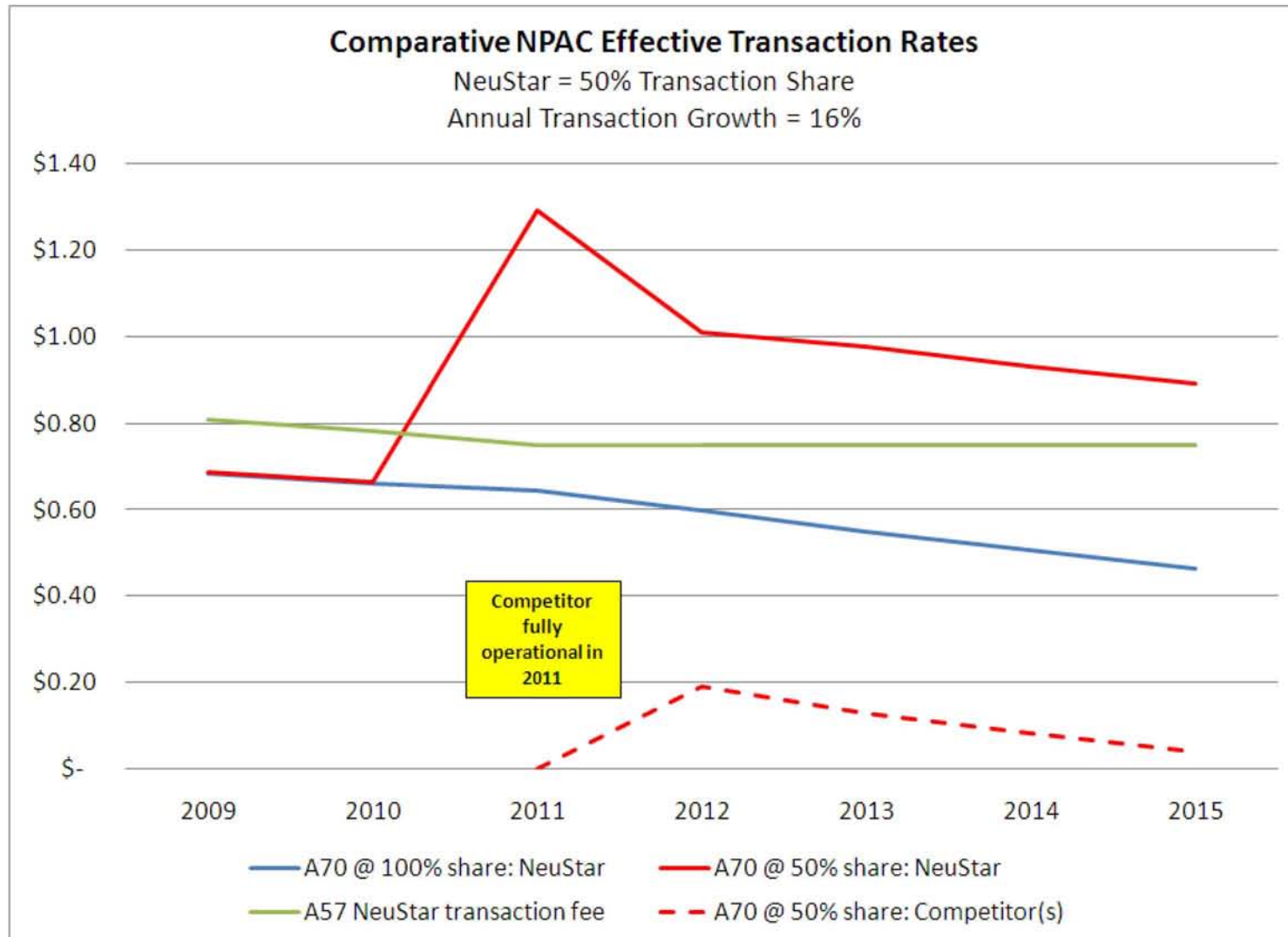


NeuStar revenues at 50% v. 100% market share

(Assumes projected 16% transaction growth rate)



Another View – At 50% Share, Competitor's Effective Per Transaction Price Must Be Over 5x Lower than NeuStar's (And Free for the First Year)



■ ■ ■ What's Needed – Immediate Competitive Bidding & Implementation of A Multi-Vendor NPAC

Amendment 57

- No Competitive Bidding Until **2012** (\$30+ MM Annual Penalty)
- No Multi-Vendor Selection Until **2012** (\$30+ MM Annual Penalty)

Amendment 70

- Competitive Bidding Can Start Immediately **BUT**
- No Feasible Multi-Vendor Implementation Until **2016**

Amendment 57 & Telcordia Petition

- Competitive Bidding Can Start Immediately
- Multi-Vendor Implementation as Soon as Bids Taken, Contracts Awarded

A Bad Contract Gets Even Worse – Amendment 70 Extends the NPAC Monopoly to ENUM (Background)

- ENUM – A competitive, multi-vendor market today.
 - ENUM associates a Telephone Number with Uniform Resource Locators (URIs) associated with IP gateways for customer services/devices.
 - ENUM is not a number portability administration service, but today uses NPAC as an input; *however, in an all IP-IP universe, use of NPAC may no longer be needed.*
 - Tier 0/1 ENUM Clearinghouse Providers enable IP-IP traffic exchange between service providers.
 - For Tier 0/1 ENUM Clearinghouses, key asset is database of TNs and associated URIs.
 - ENUM providers charge their customers.

■ ■ ■ Amendment 70 Harms ENUM Competition

NeuStar CEO: “What [Amendment 70] does is takes an existing platform that all networks are currently physically interfacing with, they’re currently depending upon it for routing virtually all telephone calls and it puts into that database the first three simple IP data points that are necessary for the first simple IP applications that networks are going to provide.” (1/28/09 Investor Call)

- Amendment 70 cross-subsidizes the creation of an ENUM provisioning database by using the NPAC contract to create financial incentives (up to \$22.5M) for the industry to issue the change orders and to actually use the URIs by 2011.
- URIs populated and modified under Amendment 70 are paid by industry as a whole, not by customer, creating another cross-subsidy.
- No other vendor can integrate NPAC and ENUM before 2016 due to Amendment 70’s competitive lock-out.
- High costs for others to create database means NeuStar can recoup monopoly profits after it drives other ENUM vendors from market.

FCC Rules Do Not Permit NAPM to Add URIs to the NPAC

- 47 C.F.R. 52.25(f) prohibits addition to NPAC of data not “necessary to route calls to the appropriate telecommunications carriers.” “The NANC shall determine what specific information is necessary.”
- NANC has never found URIs to be “necessary to route calls to the appropriate telecommunications carriers.”
 - NANC considered in 2005 and failed to reach consensus.
 - As stated in the NANC 400 Report, “At the April 14, 2005 joint meeting of the Future of Numbering and LNPA Working Groups there was agreement of all parties that placement of Internet URIs (Universal Resource Identifiers) in the NPAC (Number Portability Administration Center) was not necessary to support PSTN (Public Switched Telephone Network) call completion.”
- Neither NAPM nor the LNPA Working Group are NANC, and thus cannot add URIs to the NPAC without NANC finding the fields to be necessary. NANC operates pursuant to FACA – NAPM does not.
- No entity other than the FCC can authorize adding fields to the NPAC that are not “necessary to route calls to the appropriate telecommunications carriers.” NANC cannot make policy.

■ ■ ■ What the FCC Needs to Do

- Prevent Further Harm
 - Immediately direct NANC and the NAPM not to issue any change orders or statements of work implementing the three URI fields, pending FCC review and approval.
 - Direct NAPM not to execute further amendments without prior NANC and FCC review and approval.
- Reestablish Competition in NPAC Services at the Best Possible Price for Consumers
 - Immediately begin a competitive procurement to replace the current contracts as soon as bids are awarded and implemented.
- Reestablish Governmental Oversight
 - End the NAPM LLC's management of the NPAC contracts.
 - FCC makes final decision on all contract amendments.